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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROBERT MELBER,

Plaintiff,

v.

NEELAKSHI BHAGAT, M.D.; KEEGAN
JOHNSON, M.D.; SCOTT M. WALSMAN,
M.D.; AMIR COHEN, M.D.; JUNG S. LEE,
M.D.; JOHN DOE, M.D. I-V; AND XYZ
CORPORATIONS I-V,

Defendants.

: **Hon.**

: Civil Action No.

: **NOTICE OF REMOVAL AND SUBSTITUTION**
: **OF DEFENDANT**

TO: Michael J. Noonan, Esq.
Nowell Amoroso Klein Bierman, P.A.
155 Polifly Road
Hackensack, New Jersey 07601

Clerk's Office
Superior Court of New Jersey
Justice Center, 10 Main Street
Hackensack, New Jersey 07601

Gary L. Riveles, Esq.
Dughi & Hewit, P.C.
340 North Avenue
Cranford, New Jersey 07016

Clerk, Superior Court of New Jersey
25 Market Street, 6th Floor
Trenton, New Jersey 08615

PLEASE TAKE NOTICE that the United States of America, on behalf of
Defendants Keegan Johnson, M.D.; Scott M. Walsman, M.D.; Jung S. Lee, M.D., hereby

remove this action to the United States District Court for the District of New Jersey pursuant to 28 U.S.C. § 2679(d)(2) and, in support thereof, states as follows:

1. On or about June 9, 2011, copies of the summons and complaint in this matter, which appear to have been served on defendant Walsman on or about June 1, 2011, was sent to the United States Attorney's Office for the District of New Jersey by the Office of Regional Counsel for the Department of Veterans' Affairs ("VA"). A copy of the complaint and summons is attached hereto as Exhibit 1.

2. The complaint names as defendants Keegan Johnson, M.D.; Scott M. Walsman, M.D.; Jung S. Lee, M.D., who, at the time of the events giving rise to this action, were employed by the VA New Jersey Healthcare System ("VA NJHCS") as, respectively, resident physicians (defendants Johnson and Walsman) and Chief of Ophthalmology at the center.

3. As shown by the Certification of Scope of Employment, filed herewith pursuant to 28 U.S.C. § 2679(d)(2), Drs. Johnson, Walsman, and Lee were acting within the scope of his employment as employees of the United States at the time of the events complained of.

4. Accordingly, this action is one that is to be removed to this Court at any time prior to trial pursuant to 28 U.S.C. § 2679(d)(2).

5. Also pursuant to 28 U.S.C. § 2679(d)(2), the United States should be substituted for Drs. Johnson, Walsman, and Lee as the only proper federal defendant.

6. According to information and belief, the plaintiff has failed to file an administrative claim under the Federal Tort Claims Act, 28 U.S.C. § 1346(b), § 2640, and §§ 2671-2680 ("FTCA"), as to any action by defendant Dr. Lee.

7. A copy of this Notice is being filed with the Superior Court of New Jersey, Law Division; a copy is also being served on the plaintiff.

PAUL J. FISHMAN
United States Attorney

By: S / Peter G. O'Malley_____
PETER G. O'MALLEY
Assistant U.S. Attorney